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December 16, 2003

Sent via Facsimile & U.S. Mail

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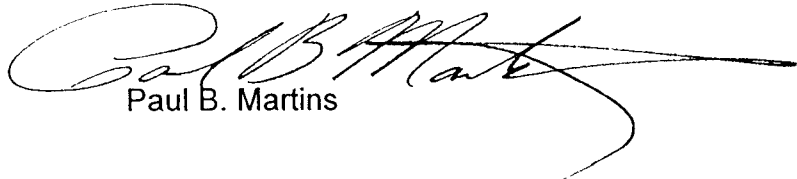
**Re: *Estate of Roger D. Owensby, Jr. v. City of Cincinnati, et al.,
Case No. 01-CV-769 (S.D. Ohio)***

Dear Counsel:

We have just received Defendants' Reply in Support of Motion for Continuance and Extended Discovery Deadline (Doc. 73). At pages 3 and 4 of this Reply you raise for the first time a "scheduling conflict with the May 2004 tentative trial date" claiming that Mr. Freund has another trial scheduled in May, 2004. However, you fail to point out that Mr. Freund did not enter this case until June, 18, 2003 (Doc. 40)—more than 4 months *after* Judge Spiegel established the trial date in his February 3, 2003 Scheduling Order (Doc. 32). Therefore, Mr. Freund knew of the trial date when he entered this case.

This argument was never raised in your initial Motion for Continuance of Trial and Extending Discovery Deadline (Doc. 65). It is improper to raise new arguments in a Reply Memorandum and thereby preclude Plaintiff from their response. Therefore, please immediately withdraw this portion of your Reply Memorandum.

Sincerely,



Paul B. Martins

PBM:kmr

cc: Mark T. Tillar, Esq. (via facsimile & U.S. Mail)
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EXHIBIT A